

CITY OF BUFFALO ORDINANCE NO

AN ORDINANCE CREATING THE TREE ORDINANCE OF THE CITY OF BUFFALO, NORTH DAKOTA

Be it ordained by the City Council of the City of Buffalo, Cass County, North Dakota:

1. Preamble

This ordinance establishes policies, regulations and standards necessary to ensure the City of Buffalo will realize the benefits provided by its community forest.

2. Title

This Ordinance shall be known and may be cited as the Tree Ordinance of the City of Buffalo, North Dakota.

3. Intent

This ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

Therefore, the purpose of this chapter is to provide regulations for the planting of new trees and the maintenance and preservation of existing trees on all properties in Buffalo, public and private, undeveloped or developed.

Authority and Power

1. City's Right to Plant, Maintain and Remove Trees on Public Property

The City shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The city shall have the power to plant, preserve, spray, trim or remove any tree, shrub or plant on any parkway, alley or public ground belonging to the City of Buffalo.

The City shall take responsibility for those maintenance activities needed to keep public trees reasonably healthy and to minimize the risk of injury to people or property. Tree care may be accomplished by the City personnel or by contract with commercial tree care companies. Tree maintenance may include pruning, fertilization, watering, insect and disease control.

2. City's Right to Maintain and Remove Trees on Private Property

The City shall have the right to cause the removal of any dead, diseased or structurally damaged trees on private property when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.

3. Establish Tree Board

There is hereby created and established the City of Buffalo Tree Advisory Committee (hereinafter "the Board")

The purposes of the Tree Advisory Committee shall be promoting the responsible planting of trees on public and private property, public education about trees, promotion of proper maintenance of trees, advocating trees within the City, and developing innovative and joint funding for projects from a variety of sources including available grants, loans or contributions from other governmental agencies, public or private corporations or individuals.

4. Composition of Tree Board

The Tree Advisory Committee shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the Approval of the Council.

5. Tree Board Compensation

Members of the Tree Advisory Committee shall serve without compensation.

6. Tree Board Meetings

The Tree Advisory Committee shall be responsible for meeting periodically at such times and places as the Tree Advisory Committee shall determine necessary to investigate, study, and plan for the planting, care and maintenance of all trees on publicly owned lands.

7. Duty to Advise

The Buffalo Tree Advisory Committee shall be advisory in nature with the purpose of providing advice to the Mayor and City Council as to the preservation, protection and management of the community forest of Buffalo, in accordance with the intents and purposes of this chapter. To review and recommend specific beautification projects and programs to the city manager and or city board as may be appropriate.

The Tree Advisory Committee shall have the power to take such reasonable steps as it deems appropriate to increase citizen awareness of and involvement in its programs and objectives

The Buffalo Tree Advisory Committee will have the responsibility of educating the community about the advantages of growing trees. It will provide the community with information on viable species for the area, how to plant the trees and how to maintain them.

The Tree Advisory Committee shall assist the elected City Council and citizens of the City, in the dissemination of news and information regarding the selecting, planting, and maintenance of trees with the City, whether the same be on private or public property, and to make such recommendation from time to time to the elected City Council as to desirable legislation concerning the trees program and activities for the City. Foster community support for the City of

Buffalo community forest program.

8. Vacancies on the Tree Board

Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

Faithful attendance at all Tree Advisory Committee meetings and conscientious performance of the duties required of the Tree Advisory Committee members shall be considered a prerequisite of continuing membership on the Tree Advisory Committee.

Licensing

1. License Required

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the City of Buffalo without first producing evidence of appropriate certification/license before the City of Buffalo.

2. Exemption from License Requirement

Provided, however, that no license shall be required on any public service company including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors.

The employees of a tree contractor licensed hereunder shall not be required to obtain a tree contractor's license so long as they are in fact employees of a tree contractor so licensed.

3. Insurance Coverage

A tree service business shall be able to provide a certificate of insurance showing insurance coverage for general liability, automobile liability, worker's compensation, and other coverage required by law.

Tree Planting, Maintenance, and Removal

1. Tree Planting, Maintenance, and Removal

It is the public policy of the City of Buffalo to maintain existing trees and to provide for and encourage the planting of new trees within Buffalo to the greatest extent possible.

2. Official Tree List

The Buffalo shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

3. Prohibit Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other

causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Advisory Committee.

The practice of tree topping is strongly discouraged on all public trees or street trees and is strongly discouraged as a tree care practice for private trees. Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

4. Order Required for a Notice to Take Action

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, hedges or shrubbery, or threatens to spread disease or insect infestations, the City Tree Advisory Committee shall notify the City Council, so they may once cause written notice to be served upon the owner of the property of his/her agent upon which such diseased or infested trees, hedge,

5. Service of a Notice to Take Action

Such notice shall require the elimination of the nuisance no less than 30 days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last

6. Failure to Comply with a Notice to Take Action

When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

7. Adjacent Landowner's Limited Responsibility

This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and the location of said trees is in accordance with the guidelines for planting and spacing developed by the Tree Advisory Committee. The Tree Advisory Committee/ City Council may reserve the right to approve any plantings that take place in the right-of-way areas.

8. Protection from Disease and Pestilence Spread by Infested Wood

It shall be unlawful for any person to transport or store within the city any bark-bearing elm wood during the part of the year, April 1 to October 1.

9. Abuse or Mutilation of Public Trees

No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written permit of the city forester.

Snow will not be plowed, blown, shoveled from roof tops, or piled in a manner that damages trees.

No trees on land owned or maintained by the City shall be pruned in a manner that impairs the health of the tree.

10. Mutilation of Public Trees

No person shall intentionally damage, cut, carve, transplant, or remove any tree; It shall be unlawful for any person to cut, break, strip off the bark or damage in any manner any tree or shrub planted in any street public place in the city.

11. Private Trees

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Trees and shrubs on private property that may affect the safety and welfare of people other than the owner (infectious disease or insect problems, dead and dying limbs, obstructive limbs to street lights, traffic signs for example) will require coordination between the owner, mayor's office, and the "Tree Advisory Committee" to inspect the situation.

Nothing contained herein shall prevent the removal of any trees or portions of trees on private property, and this Ordinance is not intended to restrict the removal of trees by owners.

All dead trees on private property shall be removed by the owner of such property.

12. Right to Enter Private Property

The City of Buffalo or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary.

The City or his or her agent has authority to enter onto private property whenever necessary to inspect or maintain a public tree.

The City or his or her designee has authority to enter onto private property for the purpose of inspecting a public tree when the tree cannot be adequately inspected from public property, or for the purpose of inspecting a private tree believed to be a nuisance.

1. Severability Clause

If any section of the ordinance is found to be invalid or unconstitutional, it does not affect the validity of remaining sections.

2. Effective Date

This ordinance shall be in full force and effect from and after 12-03-07.

APPROVED:

Mayor

ATTEST:

City Auditor

Date of First Reading: 07-02-07

Date of Second Reading and Final Passage: 12-03-007